

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE POWER AND LIGHT COMPANY	DOCKET NO. PSA-04-1
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ORDER OPENING DOCKET AND SCHEDULING SHOW CAUSE HEARING

(Issued August 12, 2004)

PROCEDURAL HISTORY

The Utilities Board (Board) is opening Docket No. PSA-04-1 to consider whether it should assess civil penalties against Interstate Power and Light Company (IPL) for failure to comply with federal and Board safety regulations. IPL is a rate-regulated natural gas utility subject to the Board's jurisdiction pursuant to Iowa Code § 476.1. IPL owns and operates natural gas pipelines in Iowa. All pipelines owned by IPL in Iowa are considered intrastate (except for two pipelines crossing the Mississippi River near Clinton, Iowa) and, therefore, subject to the Board's inspection and enforcement authority. Under 49 U.S.C.A. § 60105(a)(9), an intrastate gas pipeline is one not subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC) and includes some direct sales lines meeting certain criteria.

The Board, through its staff, performs safety inspections of all IPL natural gas facilities to determine if they are in compliance with federal and Board safety standards. Compliance with the safety regulations established by the federal

government and the Board is vitally important to the safety and welfare of Iowa citizens and their property.

Board staff prepares reports of violations of gas pipeline safety regulations and provides those reports to IPL personnel for corrective action. A staff report dated June 10, 2004, documented a number of violations found in IPL's Mason City zone. The Board had previously conducted an investigation into similar violations by IPL of federal and Board safety regulations in Docket No. PSA-01-1, In re: IES Utilities Inc. IES Utilities Inc. is now known as IPL.

PRIOR VIOLATIONS

The Board opened Docket No. PSA-01-1 on December 13, 2001, to address certain violations of federal and Board gas safety regulations as documented by Board staff. In the December 13, 2001, order, the Board described the violations and directed IPL to file 1) a plan for corrective action; 2) monthly progress reports showing the corrective action taken and providing an explanation of any scheduled actions not completed; and 3) a report that described the steps IPL would take to ensure it remained in compliance with federal and Board safety regulations in the future.

The violations addressed by the Board in the December 13, 2001, order were as follows:

1. A repeat violation of 49 CFR § 192.723 concerning failure to conduct and record leak surveys in the Belmond district. This section of federal regulations requires that leak surveys are to be conducted in business

districts at specified intervals and records kept of those results. Leak surveys are conducted in gas, electric, telephone, sewer, and water system manholes, at cracks in pavement and sidewalks, and at other locations providing an opportunity for gas leaks. Detection of the leaks prevents natural gas accidents that can endanger persons and property from occurring.

2. Violations of the cathodic protection requirements of 49 CFR § 192.465 in Iowa Falls and Wellsburg, Iowa, as well as other locations. Monitoring of cathodic protection is required by the external corrosion control monitoring standards in the federal regulations. The level of cathodic protection required by the regulations must be maintained to prevent corrosion of the natural gas pipes which could result in leaks, that endangered persons and property.

3. Violations of the requirements for emergency shut-off valves in 49 CFR § 192.181(b).

4. Violation of the Board's leak call response requirements in 199 IAC 19.8(4). This rule requires IPL to consider a report of a gas leak to be an emergency requiring immediate attention. Board staff has used a maximum response time of one hour, without extenuating circumstances, to evaluate compliance with this requirement. Violations were found in the Spirit Lake and Creston districts.

5. Violations of the requirements for establishing a Maximum Allowable Operating Pressure (MAOP) in 49 CFR §§ 192.619, 621, and 623.

Each pipeline must have an established MAOP, which is essentially a pressure rating for the pipeline or pipeline system. The violations included instances of missing or incomplete documentation and outright errors. Also, numerous instances were found where MAOP records did not agree with the pressures listed in regulator station review documents, which called into question the adequacy of pressure control and overpressure protection on the downstream pipelines.

6. Violations of 49 CFR Part 192, Subpart J, and 49 CFR § 192.13(c). These violations involved improper pressure testing of newly-installed pipelines.

The Board determined that the specific violations described above and the overall review of the violations found by staff during inspections for the years 1999, 2000, and 2001 showed a pattern on the part of IPL management of failing to properly supervise employees to ensure that the proper safety procedures were undertaken and a failure of IPL to ensure that records were properly maintained. The Board noted that the specific probable violations described above were repeat violations and demonstrated a pattern of ongoing violations. In addition, the Board found that the staff reports indicated that IPL had systematically failed to provide staff with follow-up responses detailing corrective action taken. The Board found that IPL was not following good engineering standards for the safe operation of its pipeline system.

In the order issued December 13, 2001, the Board gave IPL written notice as required by Iowa Code § 476.51 that IPL could be subject to civil penalties for the violations of Board gas pipeline safety rules. The Board indicated that the notice was given because of IPL's failure to comply with past agreements to correct violations. The Board stated if IPL failed to maintain compliance with gas pipeline safety rules, the Board without further notice could seek statutory civil penalties.

On January 21, 2003, the Board issued an order addressing the corrective actions taken by IPL after the 2001 order. The Board stated that the corrective actions taken by IPL had substantially corrected the specific violations listed in the December 13, 2001, order. The Board pointed out that IPL had created the position of Operations Specialist to increase overall attention to gas operations, identify and improve gas business processes, improve gas emergency responses, improve completion of gas maintenance and follow-up activities, and improve the overall quality of documentation and record keeping. The Board noted that IPL had also assigned an engineer to be responsible for Iowa operations and to respond to Board inquiries and inspections.

The Board found that IPL had demonstrated significant improvement in responding to Board staff inspections and requests and that assigning an engineer for Iowa operations had improved communications with Board staff. The Board stated that there were also indications that zone managers had become more aware of the need to correct deficiencies found during inspections.

The Board then reiterated that IPL had been given written notice as required by § 476.51 that it could be subject to civil penalties for violations of Board gas pipeline safety rules. Notice was given because of IPL's failure to comply with past agreements to correct violations. The Board stated if IPL failed to maintain compliance with gas pipeline safety rules, the Board without further notice could seek statutory civil penalties.

On August 1, 2003, the Board issued an order closing Docket No. PSA-01-1. In that order, the Board again restated that future violations of federal or Board safety regulations may result in civil penalties being assessed against IPL.

CURRENT VIOLATIONS

Iowa Code § 476.2(5) requires a rate-regulated natural gas utility operating within Iowa to maintain the administrative, technical, and operating personnel necessary for the delivery of safe and reasonably adequate services and facilities as required pursuant to Iowa Code § 476.8. This section provides that a utility that violates this section shall be subject to the penalties provided in § 476.51 and shall be denied authority to recover, for a period determined by the Board, the costs of an energy efficiency plan pursuant to § 476.6(11).

The Board has adopted natural gas pipeline safety requirements in rules 199 IAC 19.5 and 19.8 that establish safety standards for rate-regulated natural gas companies to meet the requirements of §§ 476.2(5) and 476.8. These rules adopt the safety standards from federal regulations in 49 CFR Part 192. In rule 19.8, the

Board has also adopted standards for gas leak call responses, odorization, and turning on gas service that are more stringent than the federal regulations.

Board staff has continued to conduct inspections of IPL's pipeline system under federal and Board safety regulations after the Board's order in Docket No. PSA-01-1 in order to ensure IPL continues to comply with those regulations. A Board staff inspection report dated June 10, 2004, for the Mason City zone revealed areas where IPL had failed to comply with federal and Board safety regulations and IPL's Operation and Maintenance (O&M) Plan. Failure to comply with a utility's own O&M Plan is a violation of 49 CFR § 192.13(c).

The areas of probable violations involve leak surveys, corrosion control, odorization, and pressure testing, as discussed below.

1. Records reviewed in the Belmond district showed that all of the cathodic protection surveys in 2003 were not completed within the 15-month requirement established in federal regulation 192.465. Pipe-to-soil surveys in Belmond, Alexander, Coulter, Garner, the St. Johns Church area, Meservey, and Thornton were conducted between July 10 and 12, 2002, and then the next surveys were conducted between November 6 and 20, 2003. Pipe-to-soil surveys in Britt, Kanawha, and Corwith were conducted between May 20 and 22, 2002, and the next surveys were conducted between October 9 to 13, 2003. In the Mason City district, cathodic zone #37 was surveyed on July 24, 2002, and the next survey was on October 30, 2003, and cathodic zone #50 was surveyed on July 23, 2002, and then again on November 11, 2003.

2. IPL's Operation and Maintenance Plan Section 80.00 requires "All casings shall be tested for electrical isolation from the carrier pipe once each calendar year, with intervals not exceeding 15 months." A review of the records in the Belmond district showed that all of the casings were not tested for electrical isolation in 2003; they were tested on September 20, 2002, and then again on March 18, 2004. There was also one casing that exceeded the 15-month requirement in the Mason City district. The failure to meet the 15-month testing requirement violates federal regulations 192.467 and 192.13(c).

3. In the Mason City district, there were six casings that were not checked for electrical isolation in 2002 or 2003. A review of the records indicated that the six casings did not have vent pipes or test wires in order to perform the test. The operator has been leak surveying these six casings as if they were "shorted." The O&M plan does not contain procedures to address when a casing is found without test wires or casing vents. Not testing these casings is a violation of federal regulations 192.467 and 192.13(c).

4. IPL has not taken a sufficient number of readings to determine the adequacy of cathodic protection on 15 systems in the Belmond district. IPL is taking only two pipe-to-soil readings in each town, but safety publications indicate that four or more tests are required. See A.W. PEABODY, PEABODY'S CONTROL OF PIPELINE CORROSION (Ronald L. Bianchetti ed., 2d ed., 1967, p. 245). This particular safety publication refers to transmission lines; however, distribution lines should require higher

standards since they have more complex geometries and have more points where foreign facilities (electric lines, water lines, etc.) are crossed or are sharing the public right-of-way within the municipalities. The failure to make a reasonable number of tests is a violation of federal regulation 192.469.

5. Records showed that a contractor working for IPL installed 131 feet of 2-inch gas main at 807 8th Street in Nora Springs and conducted an air test at 100 psig (pounds per square inch gauge) for 20 minutes. IPL's O&M Plan requires the test be for one hour, but IPL's records show that IPL personnel approved the testing as recorded. After this was brought to IPL's attention during the Board staff inspection, the contractor's foreman signed an affidavit that he performed the testing in compliance with IPL's O&M Plan. IPL has procedures for finding and correcting an error in the testing records, but those procedures were not followed. These procedures were adopted by IPL in response to the Board's directives in Docket No. PSA-01-1 and must be followed. Failure to find and correct the testing error at the time it was recorded is a violation of federal regulations 192.503 and 192.13(c).

6. IPL's O&M Plan Section 70.80 requires that the presence of gas-in-air must be readily detectable by smell before the gas concentration reaches 20 percent of the lower explosive limit, which is approximately 0.8 percent gas-in-air. Readings of percent gas-in-air are obtained with a mechanical or electrical odor meter, and IPL procedures require that when an unacceptable reading is obtained, a second reading shall be taken. If the

second reading is acceptable, the first reading is disregarded, but if the second reading is less than 0.1 percent or greater than 0.7 percent, prompt corrective actions shall be taken.

In the Mason City district, there were no records that showed follow-up action was taken in 25 instances in which gas-in-air readings exceeded 0.7 percent on certain dates in Stacyville, Toeterville, Rudd, Bancroft, Buffalo Center, Lakota, Ledyard, and Kensett. Records indicate that no remedial action was taken by the operator when these readings were made. This failure violates federal regulations 192.625(a) and 192.13(c) and Board subrule 199 IAC 19.8(5).

7. IPL's records indicate that the Lakota lateral and Buffalo Center lateral pipelines leak survey exceeded the 15-month interval. The Lakota lateral was leak surveyed on July 10, 2002, and then the next survey was on October 14, 2003. The Buffalo Center lateral was surveyed on July 10, 2002, and then again on October 14-16, 2003. This failure to conduct leak surveys within 15 months is a violation of federal regulation 192.706.

8. IPL operates a 16-inch pipeline attached to a bridge in a business area of Mason City. No records were found that established the pipeline was patrolled in the fourth quarter of 2002 or the first quarter of 2003. Federal regulation 192.721(b)(1) requires that these types of installations in business districts be patrolled at intervals not to exceed four and one-half

months but at least four times each calendar year. The failure to patrol the pipeline is a violation of federal regulation 192.721(b)(1).

9. IPL's records indicate that leak surveys in the business district of Stacyville were conducted on July 20, 2001, and then again on October 30, 2002. This exceeds the 15-month interval requirement and is a violation of federal regulation 192.723(b)(1).

10. In Buffalo Center, a residential leak survey of the system was conducted between August 3 and August 17, 1998, and the next survey was conducted between November 5 and 12, 2003. In Clear Lake, a residential leak survey of the north half of the system was conducted between June 27 and August 1, 1997; the next survey was between August 27 and October 29, 2002. In Stacyville, a residential leak survey of the entire system was conducted on September 8, 1997, and the next survey was conducted between October 30 and 31, 2002. In Toeterville, a residential leak survey of the entire system was conducted on September 8, 1997, and then the next survey was on September 26, 2002. The time between the two surveys in each of the identified cities exceeded the 60-month requirement and is a violation of federal regulation 192.723(b)(2).

11. In a July 13, 2004, addendum to the June 10, 2004, report, Board staff stated that the probable violations should not have occurred if the oversight mechanisms, scheduling tools, and training established under the Board directives in Docket No. PSA-01-1 were in place and operating

correctly. Staff concluded that IPL has again shown a pattern of violations by failing to properly supervise its employees in order to ensure compliance with safety regulations and procedures.

In response to the Board's directives in Docket No. PSA-01-1, IPL established what appeared to be comprehensive procedures and assigned management personnel to oversee compliance with safety regulations. The Board closed Docket No. PSA-01-1 as a result of the corrective actions taken by IPL. The Board considered the violations detailed in Docket No. PSA-01-1 to be very serious and stated in several orders that failure of IPL to continue to comply with safety regulations could result in an action for civil penalties.

The Board staff report of June 10, 2004, demonstrates that the procedures established by IPL and the new management personnel identified as a result of Docket No. PSA-01-1 have not been a complete and satisfactory solution to the violations. The number and substance of the violations found by Board staff indicate that IPL has failed to place a sufficiently high priority on compliance with safety regulations, as directed by the Board and as expected by the Board and required by Iowa law.

Based upon IPL's continued failure to comply with federal and Board safety requirements, the Board will establish a procedural schedule and hold an evidentiary hearing to consider whether civil penalties should be levied against IPL under the provisions of Iowa Code § 476.51. Because of the previous violations, IPL may be subject to increased penalties for willful violations. At the hearing, IPL will be

required to show cause why it should not be subject to civil penalties for the violations described in this order in the section on "Current Violations."

Pursuant to Iowa Code § 17A.14(4), the Board will take official notice of the staff inspection report dated June 10, 2004. The report will be identified as Utilities Board Exhibit No. 1 and placed in the record in this proceeding. The Board staff July 13, 2004, addendum to the June 10, 2004, inspection report will also be officially noticed; it will be designated Utilities Board Exhibit 2 and placed in the record of this proceeding.

On August 2, 2004, the Board received a response from IPL to the June 10, 2004, inspection report. Since the Board is setting this matter for pre-filed testimony and hearing, the Board has not addressed the response in this order, but may take it up in subsequent orders in this docket.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. Docket No. PSA-04-1 is docketed for consideration of civil penalties against Interstate Power and Light Company.
2. Interstate Power and Light Company is directed to appear at the hearing scheduled below and show cause why it should not be subject to civil penalties pursuant to Iowa Code § 476.51.
3. The following procedural schedule is established:
 - a. Petitions to intervene shall be filed on or before August 23, 2004.

b. Interstate Power and Light Company shall file prepared direct testimony along with any underlying workpapers and exhibits on or before September 7, 2004.

c. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) and any intervenors may file prepared direct testimony, with the underlying workpapers and exhibits, on or before September 27, 2004.

d. Interstate Power and Light Company may file rebuttal testimony, with underlying workpapers and exhibits, on or before October 8, 2004.

e. A hearing shall be held for the purpose of receiving testimony and the cross-examination of all testimony beginning at 9 a.m. on November 19, 2004. The hearing shall be held in the Board's hearing room at 350 Maple Street, Des Moines, Iowa 50319-0069. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

f. The parties may file simultaneous briefs on or before November 29, 2003.

4. Pursuant to Iowa Code § 17A.14(4), the Utilities Board staff inspection report dated June 10, 2004, and cover letter addressed to Vern Gebhart, Vice President Customer Relations, dated June 28, 2004, are officially noticed and entered into the record of this proceeding as Utilities Board Exhibit 1.

5. Pursuant to Iowa Code § 17A.14(4), the Utilities Board staff addendum dated July 13, 2004, to the June 10, 2004 inspection report is officially noticed and entered into the record of this proceeding as Utilities Board Exhibit 2.

6. Copies of Utilities Board Exhibits 1 and 2 shall be placed in the file in this docket by the Utilities Board Record and Information Center.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 12th day of August, 2004.